

Three strikes may be out

LA DA believes it's time to change state's three strikes law

By André Coleman

On Oct. 1, 1993, 12-year-old Polly Klaas was abducted from her Petaluma home. Not long afterward, 39-year-old Richard Allen Davis was arrested for parole violations and became the No. 1 suspect in the case.

After the ex-convict led investigators to Klaas' body and was formally charged with first-degree murder and four special circumstances, which included robbery, burglary, kidnapping and a lewd act on a child, enraged Californians began asking why Davis was free to commit these heinous crimes.

Davis had already been arrested for abduction, sexual assault, multiple burglaries, robberies and assaults. The outrage led to overwhelming approval of Proposition 184, the Three Strikes Law, in 1994.

Davis was convicted in 1996 and currently awaits final punishment on California's Death Row. According to some reports, he rarely walks the yard, fearing that one of the inmates may blame him for their lengthy sentences.

But almost immediately after Davis' conviction it became obvious that there was something wrong with the law. Many suspects began receiving lengthy terms for petty crimes that were actually misdemeanors that had been upgraded to felonies.

For instance, Santos Reyes of El Monte is now doing 25 years to life for lying on the written portion of a driver's license test.

"I can't believe it that something like this could happen," said Santos' sister Laticia Vasquez.

"I hear about people that kill and get less than 10 years and with good behavior get out with even less time. He should pay for it. If he was fined or given community service I would agree. But this is taking his life away for something that can't be justified. He is not a violent person at all. This should not carry a life sentence. This is very, very cruel."

LA County District Attorney Steve Cooley and others want to reform the law to narrow its interpretation to focus only on violent repeat felons. At the same time, however, the California Association of District Attorneys has continuously opposed reforming the law, and opposes this latest attempt by Cooley.

Change to come

California is the only state in the nation with a three strikes law that requires the first two strikes to be serious felonies; if a suspect has two strikes, any felony, including petty theft, can be classified as a third strike, carrying a possible life sentence.

On Jan. 4 the Three strikes Reform Act of 2006 was filed with the California Attorney General's Office by Cooley and defense attorney Brian T. Dunn, who hope to get the initiative on the November ballot.

According to a statement released by Cooley's office, "The initiative would ensure that the three strikes law is applied evenly throughout California by mandating that a 25-year-to-life sentence can be imposed only if the third offense is a serious or violent felony, except in limited, specified circumstances. The initiative also provides for re-sentencing of inmates who previously received a three strikes sentence of 25 years to life, but would not receive the same sentence under the provisions of the proposed initiative."

While many law enforcement officials favor three strikes, some believe the current law is in need of reform.

"I think it absolutely works," said Pasadena Police Chief Bernard Melekian. "I don't like how it is being applied currently. I think the net has been cast far wider than it needed to be. I have always thought that people convicted of molesting children should be part of the three strikes list, and some of the people in there for drug offenses shouldn't be doing life sentences. I think the wrong people are serving life sentences. However, every time you raise the issue someone will say you are soft on crime."

The 'wrong' man

Since three strikes passed in 1994, more than 1,000 people have been sent to prison for 25 years to life for petty crimes. One such example was Leandro Andrade, who received a 50-year-to-life sentence for stealing nine videotapes from two K-Mart department stores in Ontario. Another involved Nathan Thomas, who received a 25-year-to-life sentence for stealing three packs of undershirts from a Northridge JC Penney store in 1997.

"There is case after case where you have the same problems. People have felonies, but they are not violent felonies, doing 50 years to life," said Gail Blackwell, executive director of Families to Amend California's Three Strikes (FACTS).

"You can't put everybody in one net and say you get the same sentence. You have to take into account background and how they grew up. That is why we have judges. If we are going to do it that way, we don't need judges," Blackwell said.

And like Reyes, none of the men had violent felonies prior to their third strike. According to Vasquez, her brother was trying to help an illiterate friend support his family. Reyes agreed to hire his friend to work in his roofing business. But before he could get bonded, his friend needed a California driver's license. And although he could drive, Reyes knew he would not pass the written portion of the test.

The El Monte resident and father of two decided to take the test for him at a San Bernardino DMV. Reyes' deception was discovered by DMV employees. A two-striker with previous felony convictions for a juvenile burglary in 1982 and a robbery in 1987, Reyes was charged with felony perjury, a crime that, before three strikes, called for a maximum penalty of six months in jail.

"I think that Santos represents what's wrong with three strikes in California," said Rachel Odes, coordinator of the Free Santos Reyes Committee started by Green Party gubernatorial candidate Peter Camejo.

"He was convicted for crimes of being poor and Mexican. He's just one of many. There are so many people serving long sentences for nonviolent crimes. He's hopeful, which is the best state you can be in when you are serving a sentence that you don't deserve. He's a regular guy who was trying to make a living."

Last year, 47 percent of Californians voted yes on Proposition 66, which would have made similar reforms to the law, but Cooley did not support the measure because it lessened residential burglary from a serious felony.

"It has gotten better under Cooley," said Blackwell. "[Former DA Gil] Garcetti rounded them up and herded them to prison like cattle. We only lost with Proposition 66 by 3 percent. Forty seven percent of the people voted for reform. We would have won if Arnold Schwarzenegger did not claim we were fighting to have rapist and child molesters released. That's not what we want."

In the past, the California Association of District Attorneys has opposed three strikes reform. In 2004, the group claimed that Proposition 66 would release more than 26,000 felons serving time for third strike offenses.

"Cooley is doing this for several reasons. He feels he will lose the power he has with three strikes and there will be a ballot initiative similar to Proposition 66 that will take away many of those powers," Joe Domanick, an award-winning investigative journalist and author of "Cruel Justice: Three Strikes and the Politics of Crime in America's Golden State." Domanick is also a senior fellow for criminal justice of the Institute for Justice and Journalism at USC's Annenberg School for Communication.

"[Cooley] is proposing this proposition so that he will get something he thinks is fair and just and won't limit the power of prosecutors. He is also doing it because he is a reasonable and respectable DA that doesn't want to put everyone in jail," Domanick said. "I don't know what it gets him politically; he is taking on the DA association. So I have to think he is doing it because he thinks it's right."

Reporter Tracy Spicer contributed to this story

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